

1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 CIVIL DIVISION

4 * * *

5 CLIFFORD OWENSBY,

6 Plaintiff,

7 vs. CASE NO. 3:21-cv-00343-MJN-CHG

8 CITY OF DAYTON, et al.,

9 Defendants.

10 * * *

11 Deposition of VINCENT CARTER, Defendant

12 herein, called by the Plaintiff for

13 cross-examination pursuant to the Rules of Civil

14 Procedure, taken before me, Kathy S. Wysong, a

15 Notary Public in and for the State of Ohio, at the

16 City Law Department, 101 West Third Street,

17 Dayton, Ohio, on Thursday, November 10, 2022, at

18 9:34 a.m.

19 * * *

1 EXAMINATION CONDUCTED PAGE

2 BY MR. CHRISTIAN:..... 4

3

4 EXHIBITS MARKED

5 (Plaintiff's Exhibit 1, Ticket No.
6 1995990, was marked for purposes of
7 identification.)..... 28

8 (Plaintiff's Exhibit 2, findings on
9 Professional Standards Bureau
10 Investigation, was marked for
11 purposes of identification.)..... 84

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1 APPEARANCES:

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20 ALSO PRESENT:

21 Clifford Owensby

22 * * *

1 VINCENT CARTER
2 of lawful age, Defendant herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MR. CHRISTIAN:

7 Q. Please state your name for the
8 record.

9 A. Vincent Carter.

10 Q. I'm Riley Christian. I'm here
11 representing the plaintiff, Clifford Owensby.
12 I'll be asking you some questions today. Have you
13 done any depositions before?

14 A. I have not.

15 Q. Okay. The questions that I will be
16 asking you will be under oath. Do you understand?

17 A. I understand.

18 Q. You understand that you will be --
19 you're sworn to tell the truth?

20 A. Yes.

21 Q. Okay. Now, we have a nice court
22 reporter here who will be attempting to transcribe
23 everything that we say here today so it's
24 important that we don't talk at the same time.
25 It's also very important that you say all your

1 answers verbally. Don't shake your head because
2 she can't get that down, and please no uh-huhs or
3 huh-uhs because we also can't get that either. Do
4 you understand?

5 A. I understand.

6 Q. Okay. If there's a question that you
7 don't understand, just let me know and I will do
8 my best to rephrase. Okay?

9 A. All right.

10 Q. If you need a break, just let me
11 know. The only thing that I ask is that if
12 there's a pending question, you answer the
13 question before you take your break.

14 A. All right.

15 Q. Okay?

16 A. Yes.

17 Q. Have you had any alcohol in the past
18 twenty-four hours?

19 A. No.

20 Q. Have you taken any drugs or
21 medication within the last twenty-four hours?

22 A. No.

23 Q. Is there any other reason that you
24 would not be able to give full, complete, and
25 truthful answers today?

1 A. No.

2 Q. What's your current address?

3 A. 335 West Third Street, Dayton, Ohio.

4 Q. Have you lived anywhere else this
5 year?

6 A. No.

7 Q. How long have you been at this
8 address?

9 A. Seven years.

10 Q. What's your current age?

11 A. My age you said?

12 Q. Yes.

13 A. Thirty-three.

14 Q. And when's your birthday?

15 A. October 13th of '89.

16 Q. What's your social security number?

17 MR. BAZELAK: Objection. You don't
18 have to answer that. That's personal identifying
19 information. He doesn't have to answer.

20 MR. CHRISTIAN: We can just put the
21 last four on the record, keep the rest off.

22 MR. BAZELAK: I mean, it's clear that
23 any personal identifying information he doesn't
24 have to answer so --

25 MR. CHRISTIAN: Okay.

1 MR. BAZELAK: -- there's no purpose
2 in putting any numbers.

3 MR. CHRISTIAN: All right. Just note
4 my objection for the record, please.

5 BY MR. CHRISTIAN:

6 Q. Where were you born?

7 A. Austin, Texas.

8 Q. How long were you in Austin, Texas?

9 A. Six, seven years. I'm not really
10 sure. I moved at a young age.

11 Q. When did you come to Ohio?

12 A. Eleven -- ten, eleven, twelve, on and
13 off. Whatever age you are in fourth grade.

14 Q. Where were you directly prior to
15 coming to Ohio?

16 A. Like what state?

17 Q. Yes, what state? Sorry.

18 A. I actually lived in Indiana for a
19 short period of time before Ohio.

20 Q. What is a short period of time?

21 A. The time frame between Texas and,
22 Ohio, so age six to ten, twelve.

23 Q. So anywhere from the age between six
24 and twelve you were in Indiana? I'm sorry.

25 A. Yes.

1 Q. What city?

2 A. Fort Wayne.

3 Q. Had you lived anywhere else?

4 A. No.

5 Q. Okay. Have you ever been charged
6 with a crime?

7 A. Charged with a crime?

8 Q. Yes.

9 A. No.

10 Q. Are you married?

11 A. Yes.

12 Q. When did you get married?

13 A. June of 2016.

14 Q. What's your spouse's name?

15 MR. BAZELAK: Object. Again, any
16 family names or personal identifying information
17 not discoverable under the statute.

18 MR. CHRISTIAN: Can we note my
19 objection for the record?

20 BY MR. CHRISTIAN:

21 Q. Do you have any children?

22 MR. BAZELAK: You can answer that.

23 THE WITNESS: Yes.

24 BY MR. CHRISTIAN:

25 Q. Okay. What are their names?

1 MR. BAZELAK: Objection. Don't
2 answer.

3 MR. CHRISTIAN: Note my objection,
4 please.

5 BY MR. CHRISTIAN:

6 Q. How old are your children?

7 MR. BAZELAK: You can answer.

8 THE WITNESS: Twelve and four.

9 BY MR. CHRISTIAN:

10 Q. Twelve and four?

11 A. Yep.

12 Q. So you have two children?

13 A. Yes.

14 Q. Sorry. What do you currently do for
15 work?

16 A. I work for the City of Dayton Police
17 Department.

18 Q. How long have you worked there?

19 A. It will be seven years in April.

20 Q. What's your job title?

21 A. Patrol officer.

22 Q. What's your job description as a
23 patrol officer?

24 A. Right now it's just respond to calls,
25 patrol the neighborhoods of east Dayton. I don't

1 know, I --

2 Q. When you say respond to calls, you
3 mean what exactly?

4 A. Calls of service. People call the
5 police in need of a problem or issues going on or
6 whatever else assistance that police may provide.

7 Q. So when they call, you go and show up
8 on scene?

9 A. Correct.

10 Q. What's your current schedule?

11 A. 9:00 p.m. to 7:00 a.m. I'm on third
12 shift or midnights.

13 Q. I'm sorry, can you repeat that?

14 A. I'm on midnights, like the midnight
15 schedule.

16 Q. Okay.

17 MR. CHRISTIAN: Can you read his
18 first answer back?

19 (Record read.)

20 BY MR. CHRISTIAN:

21 Q. Did you have these same hours on
22 September 30th of 2021?

23 A. I did not.

24 Q. What were your hours on that day?

25 A. At that time I was part of a

1 proactive unit, our hours varied throughout the
2 week.

3 Q. You were part of what unit?

4 A. A proactive unit. It's called the
5 west pod patrol community problem response team.

6 MR. CHRISTIAN: Can you repeat that
7 back?

8 THE WITNESS: West pod -- west patrol
9 community problem response team.

10 BY MR. CHRISTIAN:

11 Q. And so you are a part of a different
12 unit now?

13 A. I am just back on the road. I am not
14 on a unit at all now, just patrol officer.

15 Q. What's the difference between the
16 two?

17 A. When I was part of the community
18 problem response team, our sole focus was to find
19 locations or get locations and get drugs and guns
20 off the street.

21 Q. Did you have to go -- undergo any
22 training for your job?

23 A. For which one? Like just the police
24 officer in general?

25 Q. Just to be a police officer in

1 general.

2 A. Yes. You do six months in the Dayton
3 Police Academy.

4 Q. Can you describe the type of
5 training?

6 A. Basically learn how to be a police
7 officer. You start with, like, the Ohio Revised
8 Code, you do defensive tactics, you do firearms
9 training, you do driving training. Just basically
10 six months to learn how to be somewhat -- or how
11 to be a police officer.

12 Q. Okay. Did you have to undergo any
13 additional training to be a part of that proactive
14 unit?

15 A. The proactive unit?

16 Q. Yes.

17 A. No, that was all based on my work
18 done as a patrol officer.

19 Q. Have you ever received a formal
20 complaint about your conduct as a police officer?

21 A. What do you mean as a formal
22 complaint?

23 Q. Has anyone ever written a --
24 withdraw.

25 Has anyone that you've encountered

1 throughout the course of your job filed a
2 complaint with the Dayton Police Department in
3 regard to your conduct?

4 A. I don't know of any actual filed
5 complaints.

6 Q. Okay. Any non-filed complaints that
7 you're aware of?

8 A. I mean, throughout being a police
9 officer people call in and complain about you, to
10 speak to a supervisor, but that's -- I've never --

11 MR. BAZELAK: I assume you're talking
12 about other than this incident, right?

13 MR. CHRISTIAN: Yeah, I am.

14 MR. BAZELAK: Obviously, right?

15 MR. CHRISTIAN: No, obviously. Yep.
16 Uh-huh.

17 BY MR. CHRISTIAN:

18 Q. If there are complaints about you,
19 are you made aware?

20 A. Are the officers made aware?

21 Q. Yes, the officers made aware.

22 A. Yes. Your supervisor will contact
23 you.

24 Q. Is an investigation conducted?

25 A. Yes, I believe so, unless -- it

1 depends on what type of complaint it is, but you
2 would have to ask a supervisor because that's
3 above what patrol officers do. If there's a
4 complaint, that goes to the supervisor level and
5 above. That's out of my control. I don't know
6 what they do.

7 Q. Okay. Have you ever been
8 investigated for a complaint?

9 A. No, besides, I guess, this one that
10 we're referring to, I have not.

11 Q. This one counts. So okay. And
12 how -- withdrawn.

13 What was the outcome of the
14 investigation in regards to this matter?

15 A. What are you referring to?

16 Q. Well, you just stated that outside of
17 this one, you've never had an investigation done
18 on you so that means you -- in this instance there
19 has been an investigation done on you, correct?

20 A. Correct.

21 Q. Okay. So what was the outcome of the
22 investigation?

23 A. I got a training memo.

24 Q. You got a training memo. And what
25 did the training memo say?

1 A. What did it say?

2 Q. Yes.

3 A. I don't recall.

4 Q. Was there any disciplinary action?

5 A. For this outcome?

6 Q. Yes.

7 A. No.

8 Q. Are there any records kept of the
9 complaints that are made against you?

10 A. I have no idea.

11 Q. Other than the current matter, have
12 you ever been named as a party to a lawsuit?

13 A. No.

14 Q. What was your job prior to joining
15 the police department?

16 A. I was a corrections officer in
17 Hamilton County Justice Center, which is
18 Cincinnati.

19 Q. Hamilton County?

20 A. Yes.

21 Q. How long did you have that job?

22 A. I think it was almost a year.

23 Q. Why did you leave?

24 A. To come to Dayton. To come to Dayton
25 as a police officer.

1 Q. Do you remember what year you were
2 there?

3 A. '14 to '15. I started the police
4 academy in 2015.

5 Q. What's your highest level of
6 education?

7 A. Some college.

8 Q. Some college. Like a year or two?

9 A. I did like four but never graduated.

10 Q. Like four years?

11 A. Yes.

12 Q. What college?

13 A. I started at Sinclair Community
14 College and then I went to Wright State for one
15 quarter and then Cincinnati for three years.

16 Q. What year were you at Sinclair?

17 A. 2010 to, like, 2012.

18 Q. And just for clarity, Sinclair is in
19 Ohio?

20 A. Sinclair, yeah, it's right across the
21 street, Sinclair Community College in Dayton.

22 Q. Got you. What year were you at
23 Wright State?

24 A. I just remember it was the fall so
25 sometime before Cincinnati.

1 Q. When you say sometime, like
2 approximately how much time?

3 A. I was only there for one quarter so
4 just a couple months I was there.

5 Q. Why did you leave so quickly?

6 A. I didn't like it.

7 Q. And what year were you at Cincinnati,
8 what years?

9 A. I believe I already stated that. It
10 was like 2010 to 2012.

11 Q. Wait. So then when were you at
12 Sinclair? Sorry, maybe I --

13 A. Sinclair, right when I graduated,
14 after high school, so it was like 2008.

15 Q. Oh, okay, 2008. Were you ever
16 suspended from any of these colleges?

17 A. Suspended?

18 Q. Yes.

19 A. No.

20 Q. Were you ever expelled from any of
21 these colleges?

22 A. No.

23 Q. When did you first learn of this
24 deposition?

25 A. When did I first learn about it?

1 Q. Uh-huh.

2 A. I believe when I received an e-mail.

3 Q. And when was that?

4 A. I don't recall. I'd have to check my
5 e-mail.

6 Q. What did you do to prepare for the
7 deposition today?

8 A. Just met with the City attorneys.

9 Q. Did you review any documents?

10 A. Just the PSB documents, what was said
11 in the interview of that.

12 Q. Other than your attorney, did you
13 speak with anyone else in preparation for this
14 deposition?

15 A. No.

16 Q. Prior to September 30th, 2021, did
17 you know Clifford Owensby?

18 A. I did not.

19 Q. Were you working on September 30th,
20 2021?

21 A. Yes.

22 Q. What were you doing that day?

23 A. That day I came in early because that
24 week we actually worked later in the hours because
25 we were doing gun reduction initiatives that week.

1 Just came in early that day.

2 Q. When you say early, what time did you
3 come in?

4 A. I don't know, probably 10:00 or
5 11:00.

6 Q. A.m.?

7 A. Yes.

8 MR. CHRISTIAN: Can you read his last
9 answer back?

10 (Record read.)

11 MR. CHRISTIAN: Before that. Sorry.
12 I asked him what he was doing that day.

13 (Record read.)

14 BY MR. CHRISTIAN:

15 Q. What does gun reduction initiatives
16 consist of?

17 A. Combat violent crimes in the city of
18 Dayton. You identify individuals who are wanted
19 for violent crimes or whatnot.

20 Q. How do you identify them?

21 A. The detectives do and they -- because
22 we work closely with the detectives in these
23 initiatives. They come out for these as well.

24 Q. I'm sorry, can you repeat that?

25 A. So detectives would do the case work

1 on these individuals who are wanted for these
2 crimes --

3 Q. Uh-huh.

4 A. -- participate in these initiatives
5 as well to help us find these individuals who are
6 wanted.

7 Q. Okay. So are these initiatives done,
8 like, on the street? How do they work?

9 A. They're done on the street.

10 Q. And when you went on the street to do
11 your initiative, did you have a partner?

12 A. I did.

13 Q. Who was your partner?

14 A. Officer Wayne Hammock.

15 Q. How long has he been your partner?

16 A. We -- two and a half years.

17 Q. Now, do you always work with Officer
18 Hammock or do you interchange partners on
19 different days?

20 A. Depends. At the time I wasn't on
21 SWAT, Officer Hammock was. When he had SWAT
22 training, I would ride with other people. Because
23 that unit I was on at that time consisted of,
24 like, eleven or twelve of us so while Officer
25 Hammock was my primary officer -- or partner,

1 sometimes I would ride with other people in our
2 unit.

3 Q. Okay. Now, was Officer Hammock
4 working with you all day?

5 A. Are you referring to the September?

6 Q. Yes, sir, I am, September 30th.

7 A. Yes, he was.

8 Q. When did you first encounter Clifford
9 Owensby on September 30th?

10 A. When we initiated a traffic stop.

11 Q. Were you aware that his car was on
12 the road prior to you initiating the traffic stop?

13 A. I was.

14 Q. How?

15 A. I was contacted by a drug detective
16 at the time stating a location they had been
17 watching that was consistent with drug sales. I
18 was contacted by him. He said the car, a white
19 Audi, was sitting on the street running outside
20 the building, people were coming and going from
21 his vehicle, which is consistent of potentially
22 buying or selling narcotics.

23 Q. Did you believe Mr. Owensby had
24 narcotics in his vehicle prior to making the
25 traffic stop?

1 A. Yes, due to what the detective
2 described to me.

3 Q. Prior to stopping him, were you under
4 any suspicion that he may be traveling with any
5 weapons?

6 A. Well, drug houses -- drugs go
7 consistent with guns and guns go with drugs, so if
8 I thought there was narcotics, I have a high
9 probability to believe he has -- he's armed with a
10 weapon at that time as well.

11 Q. What do you mean guns go with drugs?

12 A. Most people don't sell drugs without
13 a gun. Most people who have guns on them, they
14 usually have drugs too. It goes hand in hand.

15 Q. And this is based on your experience
16 as an officer?

17 A. Correct.

18 Q. Can you describe how the traffic stop
19 occurred with Mr. Owensby?

20 A. What do you mean describe it?
21 Like --

22 Q. How did it happen?

23 A. Well, the detective said the vehicle
24 was moving, had dark window tint. Got in the area
25 and conducted a traffic stop for dark window tint.

1 Q. Immediately prior to stopping
2 Mr. Owensby's vehicle while you were still in your
3 vehicle -- is it correct to call it a patrol car?

4 A. Yeah. Cruiser, patrol car, whatever
5 you want.

6 Q. Okay. Patrol car, we'll say that.

7 A. All right.

8 Q. While you were still in your patrol
9 car, did you have a conversation with -- well,
10 first, was Officer Hammock in the patrol car with
11 you?

12 A. Yes.

13 Q. And did you have a conversation with
14 Officer Hammock about Mr. Owensby?

15 A. I didn't know who Mr. Owensby was
16 prior to the traffic stop.

17 Q. Did you have a conversation with
18 Officer Hammock about the person that was
19 described to you in this white Audi outside of a
20 known drug house or --

21 A. I don't recall any conversations
22 prior.

23 Q. How did you get Mr. Owensby's
24 attention to make the stop?

25 A. Activated our overhead lights.

1 Q. And did Mr. Owensby stop his vehicle?

2 A. He did.

3 Q. After he stopped his vehicle did you
4 approach the vehicle?

5 A. I did.

6 Q. Which side?

7 A. Driver's side.

8 Q. When you approached the driver's side
9 of the vehicle, what did you do?

10 A. Explained to Mr. Owensby who I was
11 and the reason for the traffic stop.

12 Q. Which was the window tint you said,
13 right?

14 A. Correct.

15 Q. Did you ask him for his license and
16 registration?

17 A. Yes.

18 Q. Did he give it to you?

19 A. He gave me his license, yes.

20 Q. While you were at his driver's side
21 window, did you notice any adaptive driving
22 equipment?

23 A. Eventually.

24 Q. What did you say when you noticed it?

25 A. I don't recall saying anything about

1 it. I believe Mr. Owensby advised me that he was
2 a paraplegic at some point in the traffic stop.

3 Q. What's your understanding of
4 paraplegic?

5 A. That they have partially or full loss
6 of lower extremities.

7 Q. Did you notice anyone else in the
8 vehicle?

9 A. I did not.

10 Q. After he gave you his license what
11 did you do?

12 A. I went back to the cruiser and ran
13 his information through our LEADS.

14 Q. And LEADS is what exactly?

15 A. Just law enforcement, like, database
16 for individuals, see if they're valid or not, see
17 what -- pretty much their record.

18 Q. Okay. And what -- what came up on
19 Mr. Owensby's record?

20 A. While running Mr. Owensby's
21 information, the Dayton Police Department has
22 field interview cards, it tells you all the
23 interaction that Dayton Police Department had with
24 Mr. Owensby and/or arrests, Mr. Owensby had
25 numerous contacts with the Dayton Police

1 Department with guns and drugs and he was charged
2 with weapons under disability as well.

3 Q. While you're still at Mr. Owensby's
4 driver's side initially, you made initial contact,
5 did there come a point when Officer Hammock also
6 approached the vehicle?

7 A. Officer Hammock approached the
8 vehicle probably at the same time as me. We --
9 you don't always -- if you have a partner, you
10 don't approach the vehicle alone. The initial
11 stop I should say.

12 Q. Did he say anything when he
13 approached, Officer Hammock?

14 A. I don't recall.

15 Q. After you took Mr. Owensby's license
16 back to your vehicle, you ran the check in your
17 LEADS system, did you write Mr. Owensby a ticket?

18 A. Eventually.

19 Q. Eventually. Did you do anything
20 other than the LEADS and write a ticket?

21 A. I advised Officer Hammock of
22 Mr. Owensby's prior past, and at some point, I
23 believe early on, Officer Hammock requested a K-9
24 officer to our traffic stop.

25 Q. Do you know when Officer Hammock

1 ordered the K-9 unit to the traffic stop?

2 A. I do not.

3 Q. What traffic infractions was the
4 ticket for?

5 A. Obviously the window tint.

6 Q. Okay.

7 A. And then I was advised that there was
8 a small child in the back seat who didn't have a
9 proper restraint device.

10 Q. Didn't have a proper what device?
11 I'm sorry.

12 A. Like a restraint. Like a child seat.

13 Q. As you were writing the ticket, was
14 Mr. -- excuse me -- was Officer Hammock in the
15 vehicle with you?

16 A. No.

17 Q. I'm going to show you a document,
18 what appears to be the traffic ticket from the day
19 of the traffic stop. Do you recognize this
20 ticket?

21 A. I do.

22 Q. What is -- what's this ticket? Could
23 you explain it to me?

24 A. What would you like to know?

25 Q. What's on it? I know you mentioned

1 the infractions, but could you point out where you
2 listed the infractions? I'm sorry.

3 A. The infractions would be under, like,
4 the middle of the ticket under other offenses
5 where it says window tint and then child
6 restraint.

7 Q. Okay.

8 A. And there would be an ORC to the
9 right of it.

10 Q. And is that your signature at the
11 bottom?

12 A. It is.

13 Q. Is this dated September 30th, 2021?

14 A. Yep. Yes.

15 Q. And is the name on it Clifford
16 Owensby?

17 A. That's correct.

18 MR. CHRISTIAN: I would like to mark
19 this for identification as Plaintiff's Exhibit 1.

20 (Plaintiff's Exhibit 1, Ticket No.
21 1995990, was marked for purposes of
22 identification.)

23 BY MR. CHRISTIAN:

24 Q. Now, after you finished writing this
25 ticket, did you get out of your vehicle and

1 re-approach Mr. Owensby's car?

2 A. What do you mean finish writing it?
3 I didn't finish writing it at the traffic stop.

4 Q. Can you take me through your process
5 of drafting a traffic ticket?

6 A. To, like, fill it out?

7 Q. Yeah, to fill it out. What do you
8 do?

9 A. Well, you pull up his information and
10 you just fill -- pretty much you write it in pen
11 and fill out the boxes pretty much.

12 Q. That's all? What's the last thing
13 that you do?

14 A. The last thing is you date it and you
15 sign it at the bottom when it was served, you put
16 your PDA, which is pretty much your badge number,
17 and then you fill out the back of it, but that's
18 not on here. The back of it just has like owner
19 of the vehicle, stuff like that.

20 Q. Okay. And you said that you didn't
21 finish it during the traffic stop, so when did you
22 finish it?

23 A. I don't recall the actual time I
24 finished it.

25 Q. Prior to -- withdrawn.

1 During the traffic stop, what parts
2 of this ticket did you fill out?

3 A. I don't recall when I stopped to help
4 Officer Hammock.

5 Q. Did you write your signature on it
6 before you went to go help Officer Hammock?

7 A. I don't recall.

8 Q. Did you put the date on it?

9 A. I don't recall.

10 Q. Did you put the infractions on it?

11 A. I don't recall.

12 Q. Did you write his name on it?

13 A. I definitely wrote his name on it.

14 Q. Okay. How long does it typically
15 take you to complete a traffic ticket?

16 A. It just depends on the traffic
17 infractions and the compliance of the driver, but
18 anywhere from ten, fifteen minutes.

19 Q. What do you mean the compliance of
20 the driver?

21 A. Just the way they go about things.
22 If they want to argue about the reason they're
23 stopped or not. I mean, it just depends on the
24 driver's attitude. If they're going to argue
25 about why they're stopped, that obviously takes

1 time away from me going back to start the traffic
2 ticket.

3 Q. So after you have this argument and
4 then you actually do get back into your vehicle,
5 how long does it take then after the argument is
6 over to typically complete the ticket?

7 MR. BAZELAK: Objection as to form.
8 Go ahead.

9 THE WITNESS: Like I said, it could
10 go anywhere from ten to fifteen minutes. Ten
11 being fast, fifteen being longer.

12 BY MR. CHRISTIAN:

13 Q. So there's no difference in time from
14 if you have -- withdrawn.

15 If I remember correctly, you stated
16 that Officer Hammock requested a K-9 unit?

17 A. Yes.

18 Q. What's your understanding about the
19 Dayton Police Department protocol for conducting a
20 free air sniff?

21 A. What's the protocol?

22 Q. Yes.

23 A. There isn't really one. You can call
24 for a K-9 any time you want.

25 Q. After you got out of your vehicle to

1 assist Officer Hammock, which side did you -- of
2 Mr. Owensby's vehicle did you approach?

3 A. Be the driver's side.

4 Q. Where was Officer Hammock?

5 A. I believe he was at the driver's
6 side.

7 Q. When you approached, was Officer
8 Hammock speaking to Mr. Owensby?

9 A. I don't recall at that time.

10 Q. Did you hear Officer Hammock say
11 anything to Mr. Owensby when you approached?

12 A. I don't recall.

13 Q. Do you recall Officer Hammock telling
14 Mr. Owensby that he had to step out of the car?

15 A. I know both Officer Hammock and I
16 both informed Mr. Owensby he would have to get out
17 of the car somehow, yes.

18 Q. When you say get out of the car
19 somehow, what do you mean?

20 A. Well, Officer Hammock and I were
21 speaking with Mr. Owensby trying to have him
22 explain to us a safe way to help Mr. Owensby out
23 of the vehicle.

24 Q. And what did Mr. Owensby say in
25 response?

1 A. That he was not getting out of the
2 vehicle.

3 Q. Did he say why?

4 A. Did he say why he wasn't?

5 Q. Yes.

6 A. Because he was a paraplegic.

7 Q. You stated that you wanted to assist
8 Mr. Owensby out of the car safely; is that
9 correct?

10 A. That's correct.

11 Q. Was there a wheelchair provided to
12 help him get out of the car?

13 A. Well, Mr. Owensby instructed us that
14 he got in the vehicle some way but he had no
15 devices with him to get in and out of the vehicle
16 so I felt the need to come back and help Officer
17 Hammock. Two police officers helping Mr. Owensby
18 was more safe than just one. I also believe that
19 Mr. Owensby could have instructed us how to safely
20 remove him from the vehicle, which he never did
21 provide us.

22 Q. Okay. So in that did you provide him
23 a wheelchair?

24 A. We don't carry wheelchairs with us.

25 Q. Did you make a call for a wheelchair?

1 A. We don't make calls for wheelchairs.

2 Q. Do you make calls to assist anyone
3 with a disability?

4 A. We do but --

5 MR. BAZELAK: Objection. Form. Go
6 ahead if you understand the question.

7 THE WITNESS: Can you just reask the
8 question again?

9 MR. CHRISTIAN: Can you reask the
10 question, please?

11 (Record read.)

12 MR. CHRISTIAN: I'll rephrase.

13 BY MR. CHRISTIAN:

14 Q. Do you make calls to assist anyone
15 who is unable to ambulate?

16 A. Do I personally? No, but -- because
17 usually when -- people already call the medics if
18 they need help with moving anyway so they would
19 already be there.

20 Q. When you say people, who's people
21 that already call the medics?

22 A. People who need help with whatever
23 disabilities or issues they've got going on at
24 that time.

25 Q. So you mean like the person with the

1 issue makes the phone call?

2 A. They usually call fire first because
3 they need help being transported somehow.

4 Q. Okay. And in those situations that
5 are unusual, do officers make that call?

6 A. I believe they can.

7 Q. Okay. Why didn't you?

8 A. Because at that time the K-9 was
9 already on scene. We gave Mr. Owensby multiple
10 opportunities to let us help him out of the car.
11 We even let him make phone calls to friends and
12 family to come get him out of the car, which he
13 failed to do so. He just wanted more people to
14 show up to record us. He was being actively
15 passive-aggressive, noncompliant, didn't listen to
16 any of our commands.

17 I've dealt with people who were
18 paraplegic the night before who had a device with
19 him. We safely also removed that individual from
20 the car and sat him on the ground, which I
21 wholeheartedly believe that we were going to do
22 with Mr. Owensby if he would just comply.

23 Q. Let's take a step back for a second.
24 You mentioned that the K-9 officer was on the
25 scene. When did he arrive?

1 A. Like time?

2 Q. When were you first made aware that
3 he was present on the scene?

4 A. As I was writing up the citation for
5 Mr. Owensby.

6 Q. So you were in your vehicle?

7 A. When the K-9 arrived?

8 Q. Yes.

9 A. Yes.

10 Q. And where was the K-9 unit when you
11 were in the vehicle?

12 A. I'm pretty sure he parked on Ferguson
13 Street.

14 Q. So was he parked on Ferguson Street
15 when you initially saw him while you were in the
16 vehicle?

17 A. I could see the K-9 officer from my
18 vehicle, yes.

19 Q. Was he in his vehicle?

20 A. I mean, he drove it, so yes.

21 Q. So you could see him in his vehicle?

22 A. At that time -- what are you trying
23 to ask though? Like, was he in his vehicle at one
24 time? Yes, he was.

25 Q. I'm asking you when you initially

1 stated that he arrived on scene --

2 A. Yes.

3 Q. -- was he in his vehicle?

4 A. He was getting out of his vehicle.

5 Q. He was getting out of his vehicle.

6 And how far away was his vehicle from

7 Mr. Owensby's vehicle, approximately, would you
8 say?

9 A. I don't know. Ten, fifteen feet.

10 Q. Why was Mr. Owensby being asked to be
11 removed from his vehicle?

12 A. Because it's our policy to remove
13 occupants from the vehicle when a K-9 arrives.

14 Q. When you first noticed that the K-9
15 officer was on scene, where was Officer Hammock?

16 A. I believe he was still at the car
17 with Owensby.

18 Q. While you were in your vehicle, could
19 you see Officer Hammock speaking with
20 Mr. Owensby -- withdrawn. I'll rephrase.

21 When you first noticed the K-9
22 officer, could you also see Officer Hammock
23 speaking with Mr. Owensby?

24 A. I don't recall if he was or not.

25 Q. When Mr. Owensby stated he couldn't

1 step out of the car because he was paraplegic, did
2 you say anything in response to that?

3 A. At the beginning?

4 Q. Well, just in response to his
5 statement that he couldn't get out because he was
6 a paraplegic. Did you say anything at any point?

7 A. I believe I didn't, but I'm pretty
8 sure he got in the car somehow, which he did tell
9 us that someone did help him get in the vehicle at
10 some point in time at the traffic stop.

11 Q. Do you recall having any situation
12 like prior with someone that was a paraplegic?

13 A. I do.

14 Q. And was that person removed from the
15 car?

16 A. He was.

17 Q. Was any assistance provided?

18 A. I believe officers on scene helped
19 escort -- helped lift him from his vehicle and
20 onto a curb.

21 Q. Did the person the night before
22 mention anything about their safety in regard to
23 getting out of the car?

24 A. I don't know because I wasn't the
25 contact officer on that actual traffic stop.

1 Q. Did you speak to the person -- the
2 driver the day before at all?

3 A. I don't know what we said. I did
4 speak to him. I don't recall what I actually
5 said, but I did take him to jail as well so -- I
6 mean, I spoke to him as we went to jail.

7 Q. Do you know if Officer Hammock said
8 anything in response to Mr. Owensby stating that
9 he couldn't get out of the car because he was
10 paraplegic?

11 A. I don't recall what Officer Hammock
12 said.

13 Q. Did there come a time when
14 Mr. Owensby asked for a white shirt to come to the
15 scene?

16 A. Yes.

17 Q. What's your understanding of what a
18 white shirt is?

19 A. A supervisor.

20 Q. Was a supervisor provided upon
21 request?

22 A. Eventually.

23 Q. What's the policy for -- withdrawn.

24 When a white shirt is requested, do
25 the patrol officers on scene call -- make a call

1 for the white shirt?

2 A. It depends on their situation, yes.

3 Q. What does that mean, it depends on
4 the situation?

5 A. Our situation was a little different.
6 Officer Hammock and I were in the door frame of
7 Mr. Owensby's car, which is a danger zone.
8 Obviously the night before, the individual that
9 was paraplegic was sitting on a pistol. Through
10 the information that was provided to Officer
11 Hammock and I by the detective, we truly believed
12 there was potential for a firearm in the vehicle
13 and/or drugs. I didn't feel the need -- I told
14 Mr. Owensby that we'd call a supervisor, but at
15 that time we weren't calling one as we were
16 actively trying to assist Mr. Owensby out of the
17 car.

18 Q. Okay. So you believe that because a
19 paraplegic man had a firearm on him when you
20 pulled him over the day before, Mr. Owensby also
21 had a firearm on him?

22 MR. BAZELAK: Objection. You can
23 answer, but he gave several other reasons, but go
24 ahead.

25 THE WITNESS: Like I stated, I -- the

1 traffic stop the night before, yes, the individual
2 had a firearm. And like I said, Mr. Owensby was
3 sitting in front of a drug house and he had weapon
4 history, like I stated before. I had reason to
5 believe that there was a potential for a firearm
6 within somewhere in that vehicle.

7 BY MR. CHRISTIAN:

8 Q. Did you ever find a firearm?

9 A. I did not.

10 Q. Drugs?

11 A. Nope.

12 Q. Is a white shirt or supervisor
13 supposed to be contacted upon request?

14 A. Eventually, yes.

15 Q. Eventually. Like within how much
16 time?

17 A. There is no time frame. Every call
18 is different.

19 Q. So then when do you call a white
20 shirt?

21 A. Well, like I explained to
22 Mr. Owensby, once he was out of the vehicle, a
23 white shirt would be requested to speak with him
24 about whatever issues or complaints he had with
25 the officers at the time.

1 Q. Okay. And why once he was out of the
2 vehicle?

3 A. Because we -- like I said, the
4 potential for the firearm. I'm not going to --
5 with him unknown and actively being
6 passive-aggressive toward us, refusing to let us
7 help him out of the car, I'm not going to sit
8 there and sit with him at the door frame and call
9 a white shirt and just stand there when the
10 dangers are unknown. He hasn't been patted down
11 or -- he was leaving a drug house, weapons could
12 be in the car. There's no -- once he's safely
13 secured on the curb, a white shirt would have been
14 more than welcome to come out and speak with
15 Mr. Owensby about all his issues he had.

16 Q. How was he being passive-aggressive,
17 Mr. Owensby?

18 A. Refusing to allow us -- refusing to
19 give us any type of way to help him out of the
20 vehicle, grabbing ahold of the steering wheel,
21 screaming, calling people to come. Pretty much
22 doing anything to not get out of the vehicle.

23 Q. Could it have been that he grabbed
24 the steering wheel so that he wouldn't get hurt
25 upon being pulled out?

1 MR. BAZELAK: Objection. Form. You
2 can answer.

3 THE WITNESS: Okay. Mr. Owensby was
4 grabbing the steering wheel because he didn't want
5 to get out of the vehicle. My intentions were
6 never to hurt Mr. Owensby.

7 BY MR. CHRISTIAN:

8 Q. Okay. Let's go back a little bit.
9 So when you approached the vehicle, Officer
10 Hammock was already at the vehicle. You stated
11 that you didn't -- that you don't recall the
12 confron -- excuse me, the conversation that was
13 taking place between Mr. Owensby and Officer
14 Hammock at that time, correct?

15 A. Correct.

16 Q. So since you don't recall the
17 conversation, did you just see then Officer
18 Hammock reach and grab Mr. Owensby to pull him out
19 of the car?

20 A. I don't know when that actually
21 happened. I just remember when the door was open
22 and Mr. Owensby failing to provide us a way to get
23 him out of the vehicle, that's when I believe
24 Officer Hammock reached in and unbuckled his seat
25 belt.

1 Q. So you don't know why Officer Hammock
2 was reaching in and trying to pull Mr. Owensby out
3 of the vehicle?

4 MR. BAZELAK: Objection.

5 THE WITNESS: You'd have to ask
6 Officer Hammock.

7 BY MR. CHRISTIAN:

8 Q. When Officer Hammock reached in to
9 grab Mr. Owensby out of the vehicle, did you see
10 what part of Mr. Owensby's body that he grabbed?

11 A. No.

12 Q. When you went to assist Officer
13 Hammock, what part of Mr. Owensby's body, if any,
14 did you grab?

15 A. When we went to -- I was assisting
16 Officer Hammock, I believe I -- I don't recall
17 which wrist, but I know I grabbed one of his
18 wrists.

19 Q. Is there a procedure for taking an
20 individual out of their vehicle when they're --
21 when they, in your -- withdrawn.

22 Is there a procedure to removing an
23 individual from their vehicle when a person is
24 deemed to be noncompliant?

25 MR. BAZELAK: Objection as to form,

1 but you can answer.

2 THE WITNESS: There's no procedure.
3 Every traffic stop is different. It's just based
4 on -- you go by how much resistance they're
5 providing.

6 BY MR. CHRISTIAN:

7 Q. Did you believe it would take more
8 than one person to get Officer -- excuse me, to
9 get Mr. Owensby out of the vehicle?

10 A. Do I believe there's one? No, but I
11 want to provide the best care to Mr. Owensby so I
12 thought two was better than one.

13 Q. So you believe that good care --

14 MR. CHRISTIAN: Off the record for a
15 second. I'm just pausing.

16 (Mr. Owensby exited the room.)

17 MR. CHRISTIAN: Back on.

18 BY MR. CHRISTIAN:

19 Q. So you believe that good care is to
20 assist -- sorry.

21 A. You're all right.

22 Q. -- Officer Hammock in yanking
23 Mr. Owensby out of the vehicle?

24 MR. BAZELAK: Objection. Go ahead,
25 you can answer that, but objection.

1 THE WITNESS: The care that I wanted
2 to provide for Owensby was to safely remove
3 Mr. Owensby the best way we could out of the
4 vehicle. Mr. Owensby resisted multiple times,
5 resisted all commands, never gave us an
6 opportunity or came up with a valid way to get him
7 out of the vehicle, so at that time there's
8 already two of us out there so we both escorted
9 Mr. Owensby out of the car.

10 BY MR. CHRISTIAN:

11 Q. Prior to September 30th, 2021, had
12 you undergone any type of training to accommodate
13 individuals who couldn't ambulate to help them be
14 removed from their vehicles?

15 A. Just training dealing with people
16 inside of a vehicle?

17 Q. So you had no training dealing with
18 individuals with ambulating?

19 MR. BAZELAK: I think he had asked
20 you a question to clarify it, right?

21 THE WITNESS: Yes, I just want a
22 clarification.

23 BY MR. CHRISTIAN:

24 Q. Oh. You were asking --

25 MR. BAZELAK: Yeah.

1 MR. CHRISTIAN: Can you repeat the
2 question?

3 THE WITNESS: I want, like, is this
4 training just for individuals in vehicles or just,
5 like, people in --

6 BY MR. CHRISTIAN:

7 Q. Individuals in vehicles.

8 A. Training with that, no, just people
9 who -- but I have on-the-job training for seven
10 years. I've worked in the entire city, west
11 Dayton, east Dayton, and downtown Dayton. I deal
12 with individuals every single day. The best
13 training you receive is just talking to people and
14 allowing them to explain how to help them.

15 Q. And did Mr. Owensby explain how you
16 could help him?

17 A. He never did, no.

18 Q. So in general, have you undergone any
19 training dealing with individuals who are unable
20 to ambulate?

21 A. Like I said, on-the-job training.

22 Q. So no formal training?

23 MR. BAZELAK: Objection.

24 THE WITNESS: We watch -- there's a
25 video on Power DMS which is just like police --

1 they send videos out every once in a while, but I
2 don't recall watching it.

3 BY MR. CHRISTIAN:

4 Q. So there is a potential training
5 video, you just don't remember watching it?

6 A. Correct.

7 Q. Do you think if you had watched it,
8 it could have helped you in this situation?

9 MR. BAZELAK: Objection.

10 THE WITNESS: No.

11 BY MR. CHRISTIAN:

12 Q. You said no?

13 A. No.

14 Q. Why not?

15 A. Like I stated multiple times,
16 Mr. Owensby was resisting to get out of the
17 vehicle. At no time did he provide any way of
18 getting out of the car. He made that very clear,
19 he was not getting out of the car so --

20 MR. BAZELAK: Good time to take a
21 break maybe? Your client, I don't know if you
22 want to check on him, and it's probably a good
23 time to take a five-minute break.

24 (Pause in proceedings.)

25 MR. CHRISTIAN: Can you read back the

1 last question?

2 (Record read.)

3 BY MR. BAZELAK:

4 Q. When -- I want to go back for a
5 second. When you were inside of the vehicle,
6 inside of the police vehicle, and you stated that
7 you saw that the K-9 officer was on scene, what
8 does on scene mean? Can you describe it?

9 A. On scene, he's there. Like, I can
10 see him. He's going to deploy his dog at this
11 time because that's the whole reason he's there.
12 He is there on our traffic stop now.

13 Q. So if you can see him from any
14 vantage point, does that mean he's on scene?

15 A. Yes.

16 Q. If you could see him in any distance
17 away, does that mean he's on scene?

18 A. I would say so.

19 Q. So if he's a hundred feet away, is he
20 on scene?

21 A. If I could see him pulling up, I
22 would say he's on the scene.

23 Q. Okay. No matter the distance?

24 A. No.

25 Q. When you were inside the vehicle

1 writing the ticket, could you hear anything on the
2 outside, any conversations taking place between
3 Officer Hammock and Mr. Owensby?

4 A. No.

5 Q. Okay. Were your windows up?

6 A. Honestly, I don't recall.

7 Q. Okay. Correct me if I'm wrong. Did
8 you state that -- earlier did you state that the
9 K-9 had arrived and had been removed from the
10 vehicle?

11 A. The K-9 arrived on scene?

12 Q. Yes.

13 A. Yeah.

14 Q. While you were in your vehicle?

15 A. Yeah, he arrived -- I was in my car
16 when he arrived on scene.

17 Q. Okay. What does arrived mean?

18 A. He's at our traffic stop now.

19 Q. Other than Officer Hammock, was there
20 anyone else that helped remove Mr. Owensby from
21 his vehicle?

22 A. No, it was just Officer Hammock and I
23 removed him from his vehicle, and then Officer
24 Letlow and I escorted Mr. Owensby back to my
25 cruiser -- or our cruiser I should say.

1 Q. Who is Officer Letlow?

2 A. He was a patrol officer out west.
3 He's since then retired.

4 Q. So who was the officer who brought
5 the K-9?

6 A. Officer Jim Stewart.

7 Q. Did Officer Stewart help remove
8 Mr. Owensby from the vehicle?

9 A. He did not.

10 Q. What was Officer Stewart doing?

11 A. I don't know. I don't recall.

12 Q. More specifically I mean what was he
13 doing while you and Officer Hammock were removing
14 Mr. Owensby from the vehicle?

15 MR. BAZELAK: Objection. Asked and
16 answered. Go ahead.

17 THE WITNESS: Go?

18 MR. BAZELAK: Go ahead.

19 THE WITNESS: Like I said, I
20 honestly -- I just know he was on the passenger
21 side of the vehicle. I don't know what he was
22 actually doing, no.

23 BY MR. CHRISTIAN:

24 Q. Did you all successfully remove him
25 from the car?

1 A. Eventually, yes.

2 Q. You said that the best teacher in
3 regard to how to remove individuals who are unable
4 to ambulate from their vehicle is asking
5 questions; is that correct?

6 A. Correct.

7 Q. Did you ask Mr. Owensby what
8 accommodations he needed?

9 A. We did. We asked him how he got in
10 his vehicle, which he states someone helped him.
11 We asked him how to help him out of his vehicle,
12 which he provided us no reasonable way to help him
13 out, therefore, he did not wish to at any time get
14 out of the vehicle.

15 Q. Did Officer Hammock ask what
16 accommodations he needed?

17 A. I believe so. I just don't know what
18 he said though. I believe he asked Mr. Owensby
19 how -- or what accommodations that you're
20 referring to or how to get out of the vehicle.

21 Q. What makes you believe that Officer
22 Hammock asked what were his accommodations?

23 MR. BAZELAK: Objection. Go ahead,
24 you can answer.

25 THE WITNESS: I believe at one time

1 Officer Hammock asked Mr. Owensby how he got in
2 the vehicle. So then I'm pretty sure Officer
3 Hammock asked him how can we successfully remove
4 him from the vehicle, which he did not provide.

5 BY MR. CHRISTIAN:

6 Q. Like, did you hear this? You said
7 you believe so, so did you hear it?

8 A. He eventually told me this.

9 Q. When did he tell you?

10 A. I don't recall.

11 Q. Was it during the incident?

12 A. During what incident? During what
13 time though? I don't recall.

14 Q. Well -- do you recall if he told you
15 once you -- withdrawn.

16 If Mr. Owensby had agreed to be
17 removed from the vehicle, what was the plan for
18 removing him safely?

19 A. If Mr. Owensby agreed to be removed
20 from the vehicle, the plan would have been for
21 Mr. Owensby to provide us the best way for him to
22 be removed from the vehicle like he did later in
23 the night, which I successfully removed him from
24 the cruiser and into his girlfriend's car with his
25 instructions safely. So there is a way to do it,

1 he just failed to provide it prior.

2 Q. How did Mr. Owensby -- withdrawn.

3 So you're saying that Mr. Owensby
4 didn't tell you how he got into the vehicle?

5 A. He did not tell me, no.

6 Q. Do you know if he told Officer
7 Hammock?

8 A. I believe he told him something. I
9 just don't know what that was.

10 Q. Why do you believe so?

11 A. Because they had a conversation.
12 Officer Hammock eventually told me that Owensby
13 told him that he was helped in the car because he
14 had had no devices with him, which in my training
15 and experience, every person I've dealt with
16 with -- who were paraplegic always had some type
17 of device in their car with them to provide them a
18 safe way to get out of car, which Owensby did not
19 have.

20 Q. So since Mr. Owensby stated that he
21 didn't have his device with him, if Mr. Owensby
22 had stated he needed a wheelchair, would you have
23 provided it to assist him to get out?

24 MR. BAZELAK: Objection. Asked and
25 answered. Go ahead.

1 THE WITNESS: If Mr. Owensby had a
2 wheelchair with him, we would have got the
3 wheelchair for him. We also gave Mr. Owensby an
4 opportunity to make a phone call for a device,
5 which he did not do. So obviously a wheelchair
6 was not what Mr. Owensby wanted.

7 BY MR. CHRISTIAN:

8 Q. No, not if he had it with him because
9 he stated that he didn't have a device, correct?

10 A. Yes.

11 Q. So in the interest of Mr. Owensby's
12 safety, if he said the accommodation I need to be
13 safely removed from my vehicle is a wheelchair,
14 would it have been provided?

15 MR. BAZELAK: Objection. He didn't
16 say that, but go ahead.

17 THE WITNESS: Officers do not carry
18 wheelchairs with them in their cruisers, but the
19 fact that Mr. Owensby did not have a wheelchair
20 with him, he just left a drug house, potential for
21 a gun in the vehicle, at that time the only safe
22 way to do it was to have Mr. Owensby tell us how
23 to get safely removed from the vehicle with both
24 officers at hand, which Mr. Owensby failed to do
25 so.

1 BY MR. CHRISTIAN:

2 Q. Other than asking the driver of the
3 vehicle what the safe way is to remove them from
4 the vehicle, is there any other policy in place to
5 provide a safe way to remove the driver from the
6 vehicle?

7 MR. BAZELAK: Objection. Go ahead.

8 MR. CHRISTIAN: As to what?

9 MR. BAZELAK: Policy. The word
10 policy. He never said it was like a formal
11 policy, but go ahead.

12 THE WITNESS: There necessarily isn't
13 a policy. It's based on the individual's
14 aggressive behavior, you use that much -- there's
15 no policy of how to get people out of the vehicle.
16 It's based on the actions of the driver. So
17 Mr. Owensby was resisting so we used the least
18 amount of escorting him out of the vehicle as we
19 could.

20 MR. CHRISTIAN: Can you repeat the
21 last part of his answer?

22 (Record read.)

23 BY MR. CHRISTIAN:

24 Q. There is no policy in place to --
25 that describes how to safely remove an individual

1 from the vehicle?

2 A. No.

3 Q. Once you began assisting Officer
4 Hammock pull Mr. Owensby out of the car, were you
5 concerned for Mr. Owensby's safety?

6 A. Well, I'm always concerned for
7 everyone's safety, but at the same time the
8 unknown of the potential firearm on his vehicle --
9 or on his person, the safety was my partner and I
10 at that time.

11 Q. Where was Mr. Owensby's hands when
12 you began to assist Officer Hammock pull him out
13 of the vehicle?

14 A. On the steering wheel.

15 Q. Did you see any weapons?

16 A. As we were trying to escort him out
17 of the car?

18 Q. Yes.

19 A. Not in plain view, no.

20 Q. Did you see him trying to reach for
21 anything that may have looked like a weapon?

22 A. As that began, no, but his hands did
23 not actually stay on the steering wheel the
24 duration of us trying to assist him out of the car
25 though, so his hands were moving.

1 Q. At any point did you see him reaching
2 for something that may have been a weapon?

3 A. I don't recall at that time. The
4 whole point was to get him out of the car.

5 Q. Once you got him out of the car, did
6 you handcuff him?

7 A. Eventually, yes.

8 Q. Can you describe how his body hit the
9 ground once you got him out of the vehicle -- or
10 as you were pulling him out of the vehicle?

11 A. I believe he just went straight to
12 his back.

13 Q. Do you remember his shoes flying off?

14 A. I don't, no.

15 Q. Were you made aware after that his
16 shoes flew off after he hit the ground?

17 A. That his shoes flew off? No, I was
18 never made aware that his shoes flew off during
19 the escort out of the car.

20 Q. Is it part of your practice to grab a
21 driver by his hair or head in order to remove him
22 from a vehicle?

23 A. Can you reask that? I didn't really
24 understand what you're asking.

25 MR. CHRISTIAN: Can you repeat it

1 back?

2 (Record read.)

3 MR. BAZELAK: Are you talking
4 about -- objection to the form. Go ahead. You
5 can answer.

6 THE WITNESS: So are you -- is it
7 part of our practice, like, within the Dayton
8 Police Department?

9 BY MR. CHRISTIAN:

10 Q. Yeah, we'll start there.

11 A. I don't know if it's part of a
12 practice, but it's not against any policies or
13 procedures. It's just a form of pain compliance.

14 Q. What is the policy and procedure?

15 A. For what?

16 Q. Well, you just mentioned -- you said
17 it's not part of any policy or procedure so I'm
18 assuming that there is one.

19 A. No, it's not against any.

20 Q. Okay. Have you seen the pulling of
21 the hair technique done before?

22 A. Have I personally witnessed it?

23 Q. Yes.

24 A. I've seen it done in the past, yes.

25 Q. How often?

1 A. I can't recall. We have hundreds of
2 officers on the Dayton Police Department.

3 Q. Once, twice, five times?

4 A. I don't recall.

5 Q. Were you concerned for Mr. Owensby's
6 safety as you were handcuffing him?

7 A. Like I stated before, I'm always
8 concerned about individual's I come in contact
9 with safety, but at the same time he's been
10 resisting this entire traffic stop getting out of
11 the vehicle. We haven't patted him down for any
12 potential weapons yet so at that time I wanted him
13 handcuffed so we could pat him down for any
14 potential weapons.

15 Q. Were you concerned for his safety
16 after you handcuffed him?

17 A. Once he was secured and handcuffed
18 and he had no weapons on him, yes, we -- obviously
19 he's part of our traffic stop, safety is priority.

20 Q. Did you eventually place Mr. Owensby
21 into your patrol car?

22 A. Officer Letlow and I did, yes.

23 Q. What was the plan to -- after he was
24 handcuffed, what was the plan to safely take
25 Mr. Owensby and place him in the patrol car?

1 A. Officer Letlow and I picked him up as
2 high as we could off the ground and walked him to
3 the back of our car.

4 Q. How did you pick him up?

5 A. He grabbed one arm, I grabbed the
6 other.

7 Q. And then what?

8 A. He was placed in the back of our
9 cruiser.

10 Q. How was he transported?

11 A. To where?

12 Q. To the back of your cruiser.

13 A. By picking him up.

14 Q. Just by the arms?

15 A. Well, I mean, I believe we both
16 had -- since he was handcuffed, I had one of my
17 arms behind him through the back of his arm and
18 then around his, like, torso, and I believe Letlow
19 did the same and we picked him up.

20 Q. And did you at any point -- well,
21 withdrawn.

22 When transporting him to the patrol
23 car, did anyone pick up his legs?

24 A. No.

25 Q. What were his legs doing?

1 A. I don't know.

2 Q. Were they being dragged across the
3 ground as you were taking him from being
4 handcuffed over to your patrol car?

5 A. I don't know, because like I said,
6 Officer Letlow and I picked him up as high as we
7 could so that potential would not be there, but I
8 don't know if they were or not.

9 Q. Was there any concern for what would
10 happen to his legs?

11 A. At that time I don't know.

12 Q. You don't recall if there was any
13 concern for the safety of his legs?

14 A. I don't --

15 MR. BAZELAK: Objection. Go ahead.

16 THE WITNESS: I don't recall because
17 at that time he's under arrest and he just
18 resisted arrest, and at -- at that time the safety
19 of Mr. Owensby's legs are not relevant, like, on
20 top of my head. He needs to be secured in the
21 back of our car.

22 MR. CHRISTIAN: Go off the record for
23 just a second.

24 (Pause in proceedings.)

25 (Mr. Owensby entered the room.)

1 MR. CHRISTIAN: Can you read back the
2 last answer, please?

3 (Record read.)

4 BY MR. CHRISTIAN:

5 Q. So you weren't concerned with the
6 safety of Mr. Owensby's legs after he was
7 handcuffed?

8 MR. BAZELAK: Objection. Answer it
9 again.

10 THE WITNESS: Like I said, his safety
11 was always a priority of ours and I've answered
12 multiple times, but, yes, his safety of his legs
13 were a priority but at the same time the priority
14 was getting him secured in the back of our car.

15 BY MR. CHRISTIAN:

16 Q. When you all got to the patrol car
17 with Mr. Owensby, how did you get him into the
18 patrol car?

19 A. We just sat him in there, I believe.

20 Q. Can you describe it?

21 A. Just -- I believe we just placed --
22 picked him up and placed him in the car, the seats
23 in the back.

24 Q. Picked him up how?

25 A. How we were escorting him back there.

1 Q. So by his arms, one of you have one
2 arm and the other. Did you lift him up high
3 enough? I'm trying to just paint a picture.

4 A. I guess. I don't recall the actual
5 how we did it. I just know we placed him in
6 there. He sat down on the bench safely. I would
7 have to recall to the video.

8 Q. Did you see the video?

9 A. I haven't watched it in a long time.

10 Q. So you've seen it but you haven't
11 watched it in a while?

12 A. Correct.

13 Q. I want to go back a little bit.
14 Prior to making the stop, the detective who
15 contacted you in regard to Mr. Owensby, did that
16 detective instruct you to pull Mr. Owensby over?

17 A. Well, yes.

18 Q. Did he instruct you to pull him over
19 for his dark window tint?

20 A. He told us about the dark window
21 tint, yes.

22 Q. So did he tell you to pull him over
23 for his dark window tint?

24 A. That would be the reason why for the
25 stop, yes, is the dark window tint. It's a

1 violation.

2 Q. Now, you said you were working with a
3 gun reduction initiative, correct?

4 A. That day?

5 Q. Yes.

6 A. Later that night, yes; not during the
7 time of our interaction with Mr. Owensby, no.

8 Q. So you were just operating as a
9 patrol officer at the time?

10 A. Yes, but we work closely with
11 detectives during the day as well.

12 Q. Okay.

13 A. So to better your answer, I did not
14 take calls of service when I was on that old unit
15 of the community problem response team.

16 Q. And so the detective was part of this
17 gun reduction initiative?

18 A. That night? No, he was just out
19 working that day.

20 Q. How many times a week did you do the
21 gun reduction initiatives?

22 A. When I was part of that unit, it was
23 three times a week.

24 Q. Does it last the entire day?

25 A. It depends -- it depends how long we

1 have air support.

2 Q. And what is air support?

3 A. It is an airplane or helicopter that
4 flies over -- over Dayton, that way if a car flees
5 or occupant flees, that we can lock on and
6 instruct responding officers and detectives to the
7 area or the route the car or occupant is -- or
8 individual is running.

9 Q. How did the detectives notify you of
10 the vehicle at the drug location?

11 A. He called me.

12 Q. On your cell phone?

13 A. Yeah.

14 Q. Personal cell phone or provided?

15 A. Personal cell phone.

16 Q. Why is that property in which
17 Mr. Owensby's vehicle was outside of considered a
18 drug house?

19 A. I don't know, you'd have to ask the
20 detectives.

21 Q. When you were in the process of
22 handcuffing Mr. Owensby after he was removed from
23 the vehicle, did you have to position your body on
24 Mr. Owensby in order to handcuff him?

25 A. In the back? I don't believe I put

1 my body on him at all.

2 Q. So who handcuffed him?

3 A. So what?

4 Q. Who handcuffed him?

5 A. I believe -- I don't recall, but I
6 know -- I think we all took part in it, me,
7 Officer Letlow, and Officer Hammock.

8 Q. So then what did you do in order to
9 handcuff him?

10 A. I held one of his wrists and placed a
11 cuff on it.

12 Q. What about Officer Hammock?

13 A. I don't know.

14 Q. Officer Letlow?

15 A. I don't recall.

16 Q. Now, you mentioned that you were
17 concerned for the officers' safety earlier,
18 correct?

19 A. Correct.

20 Q. Could you have searched Mr. Owensby
21 while he was inside of his vehicle?

22 A. No.

23 Q. Why not?

24 A. Officer safety. I'm not going to
25 reach inside of an unknown vehicle and start

1 patting him down for potential weapons. He could
2 reach for my weapon, he could reach for his
3 weapon. It's not safe.

4 Q. Was Mr. Owensby arrested?

5 A. He was.

6 Q. Why?

7 A. For obstruction and resisting arrest.

8 Q. Do you know if he was ever charged
9 with the offenses he was cited for?

10 A. For the traffic citation or are you
11 talking about the ones I just --

12 Q. The ones that you just said.

13 A. I don't know.

14 Q. What is your understanding of --
15 well, withdrawn.

16 Does the Dayton Police Department
17 have a policy on the amount of force they use to
18 remove individuals from their vehicle when they're
19 deemed to be noncompliant?

20 A. There is a policy. It's not
21 necessarily deemed toward people inside vehicles
22 though.

23 Q. What's the policy?

24 A. The policy -- the actual -- actual, I
25 can't even say it right, amount of force used

1 necessary to use when individuals are actively or
2 reactively resisting arrest, so pretty much the
3 amount of force necessary to gain compliance of an
4 individual.

5 Q. Do you believe that the amount of
6 force used in this instance was necessary?

7 A. Yes.

8 Q. Why?

9 A. The amount of force used was -- it
10 wasn't really force, it was just physical -- using
11 physical technique, just pulling -- or escorting
12 him out of the vehicle is the only way to get him
13 out of the vehicle was to pull him out. No other
14 type of force was used or Taser or asp or
15 anything.

16 Q. Is pulling him out considered force?

17 MR. BAZELAK: Objection. Under what
18 circumstances? Are you talking about the use of
19 force policy? It's just -- objection to the form,
20 but go ahead and answer it if you can.

21 THE WITNESS: You said is pulling out
22 force?

23 BY MR. CHRISTIAN:

24 Q. Yeah. You said in this instance what
25 happened wasn't really forced, it was just, you

1 know, pulling and using physical techniques.

2 A. What was -- so what was your question
3 again?

4 Q. Is pulling not considered force?

5 A. I guess it would be a little bit of
6 force because we have to physically get him out of
7 the vehicle.

8 Q. When Mr. Owensby was still in his
9 vehicle prior to being pulled out, did you believe
10 that he would flee the scene?

11 A. Did I believe he would? I don't
12 know.

13 Q. So was fleeing -- so was Mr. Owensby
14 potentially fleeing the scene -- withdrawn.

15 So was Mr. Owensby potentially
16 fleeing the scene not a factor in -- withdrawn.

17 When Mr. Owensby was removed from the
18 vehicle and he was on the ground and prior to
19 being handcuffed, did you perceive him as a
20 threat?

21 A. When he was on -- outside of the car
22 and on the ground before I handcuffed him?

23 Q. Yes.

24 A. Like I stated before already, the
25 potential for him having a weapon on him was still

1 great, so yes, he was still a threat at that time.

2 Q. Was a white shirt called after he was
3 handcuffed?

4 A. Yes.

5 Q. Was it after he was already placed
6 into the patrol car?

7 A. I don't recall when he was actually
8 called, but he was -- a sergeant was called, yes.

9 Q. Who was the sergeant?

10 A. That responded?

11 Q. Yes.

12 A. Sergeant Alexander Magill.

13 Q. Did you speak to Sergeant Magill?

14 A. We all did, yes.

15 Q. When did you speak with him?

16 A. When he arrived to our traffic stop.

17 Q. When did he arrive?

18 A. I don't know an exact time.

19 Q. Are you aware that Mr. Owensby's
20 pants were down as you were dragging him to the
21 vehicle?

22 A. I was not.

23 MR. BAZELAK: Objection. Go ahead.

24 THE WITNESS: I was not.

25 BY MR. CHRISTIAN:

1 Q. Other than the other officers and
2 Mr. Owensby, was there anyone else on scene?

3 A. As in the police department?

4 Q. I'm sorry?

5 A. As in like, what, police officers?

6 Q. Anyone, police officers, pedestrians.

7 A. There were multiple pedestrians
8 throughout standing on West Grand.

9 Q. Did you speak with any pedestrians?

10 A. I did not.

11 Q. Did you know who they were?

12 A. I did not.

13 Q. Did you hear them say anything?

14 A. Some were screaming, but I don't know
15 what they were screaming. Just yelling at the
16 police officers on scene.

17 Q. Did you search Mr. Owensby's vehicle?

18 A. I did.

19 Q. What did you find?

20 A. Just he had a bag of money, a little
21 over twenty-two grand, on the driver's side
22 floorboard.

23 Q. Did you confiscate it?

24 A. First -- eventually, yes, but first
25 Officer Stewart had his dog -- the money was

1 placed in an envelope with three other envelopes
2 and the dog successfully alerted on the money --
3 the envelope with the money in it.

4 Q. Why did you confiscate it, the money?

5 A. Because the K-9 alerted on it for
6 potential use in narcotics. It was a K-9, it was
7 a drug dog.

8 Q. Did the dog -- did the K-9 alert to
9 any drugs in the car?

10 A. The K-9 alerted on the car, that was
11 the reason for the search. That's why Mr. Owensby
12 was being under arrest.

13 Q. And no drugs were found, correct?

14 A. Correct.

15 Q. After no drugs were found, did
16 Mr. Owensby get his money back?

17 A. I believe he did not.

18 Q. Do you know why?

19 A. Well, pending investigation I guess.

20 Q. And no weapons were found, correct?

21 A. That's correct.

22 Q. Were you surprised that you didn't
23 find any drugs or weapons?

24 A. Was I surprised?

25 Q. Yes.

1 A. I don't know. Yes, just the way he
2 was acting throughout the duration of the traffic
3 stop.

4 Q. How was he acting?

5 MR. BAZELAK: Objection. Asked and
6 answered.

7 THE WITNESS: The way he was acting,
8 I mean, he was resisting arrest, refused to get
9 out of the car, refused to make any attempt for
10 officers to help him out of the car, made phone
11 calls to individuals to come up to his traffic
12 stop to videotape, didn't make any necessary means
13 to have some kind of device to help him out of the
14 car. At no time did Mr. Owensby ever want to get
15 out of the car

16 BY MR. CHRISTIAN:

17 Q. Do you believe individuals who don't
18 want to get out of their car when asked have drugs
19 or weapons in the car?

20 A. Yes, due to my training and
21 experiences of making numerous traffic stops on
22 individuals who refused to get out of the car and
23 in doing so usually are hiding or have weapons in
24 the car or hiding narcotics in the car or on their
25 person.

1 Q. So once Mr. Owensby stated that he
2 wasn't going to get out of the car, you believed
3 that he had drugs or weapons in the car?

4 A. Yes.

5 Q. And that's why you wanted to get
6 Mr. Owensby out of the car to conduct the search?

7 A. To get Mr. Owensby out of the car
8 because the K-9 arrived. But based on everything
9 prior to leading to the traffic stop, leaving a
10 drug house, seeing people go and come from his
11 vehicle, refusing to get out of the vehicle, there
12 was high probability, we all believed there was
13 drugs or a gun in the car.

14 Q. Did you ever give Mr. Owensby his
15 traffic ticket?

16 A. He got it at some point throughout
17 the duration of him and I's interaction.

18 Q. Did you give it to him?

19 A. He got it, yes.

20 Q. How?

21 A. I don't recall how he got it, but he
22 got it.

23 Q. Did you see him get it?

24 A. I don't recall. I just know he had
25 his traffic ticket eventually.

1 Q. How do you know?

2 A. How do I know? Because I know he got
3 it.

4 Q. Based on what?

5 A. Because Officer Hammock or I gave him
6 his traffic ticket prior to him leaving with his
7 girlfriend later that night.

8 Q. So Officer Hammock gave him the
9 ticket?

10 A. I don't know. I said officers did.
11 I don't know which officer gave it to him, but I
12 know for a fact he got his traffic ticket
13 eventually. Yeah.

14 Q. So you didn't see him get it, you
15 didn't see any officer give it to him, you don't
16 know which officer gave it to him, but he got it?

17 A. He did because eventually at one
18 point it was in his property bag at the jail so he
19 got his traffic ticket. His copy of the traffic
20 ticket was in his property bag at the time he was
21 going to jail.

22 Q. Did you see anybody hand it to him to
23 know that he actually got it?

24 A. It was in his property so it doesn't
25 matter.

1 Q. Could it just have been -- could it
2 just have been placed in his property bag?

3 A. Just placed it in there? It was his
4 property because it's his ticket.

5 Q. So if you write him a ticket and you
6 place Mr. Owensby in the back of the patrol car
7 and you place his ticket in his property bag, that
8 means he got it?

9 A. Yes, because he's under arrest and
10 all his property is going to the jail because he
11 is told he is getting a ticket, he was told he got
12 a ticket, so his ticket is now in his property
13 which is in a bag that goes to the jail with all
14 his other belongings.

15 Q. At what point did you see the ticket
16 in the property bag?

17 A. When I walked -- when we were in the
18 jail, sally port, and then we handed it to the CO
19 staff, it was in the property bag.

20 Q. So you didn't see it placed in the
21 property bag?

22 A. It was placed in there by Officer
23 Hammock or I, yes, it was.

24 Q. By Officer Hammock or you?

25 A. Correct. One of us put his ticket in

1 his property bag, like I've said.

2 Q. You were in your patrol car writing
3 Officer Hammock's ticket --

4 A. What are you asking?

5 Q. I haven't asked the question yet?

6 MR. BAZELAK: Just let him finish.

7 THE WITNESS: Oh.

8 BY MR. CHRISTIAN:

9 Q. You were in your patrol car writing
10 Officer Hammock's ticket. After you got out of
11 the patrol car, did you ever write on the ticket
12 again?

13 A. So it's not Officer Hammock's ticket,
14 it's both of our ticket.

15 Q. I'm sorry?

16 A. Mr. Owensby?

17 Q. Yeah. I misspoke. After you were
18 writing Mr. Owensby's ticket in your patrol car,
19 once you got out to assist Officer Hammock, did
20 there come a time where you went back and wrote on
21 the ticket then?

22 A. Correct, so I could finish it.

23 Q. And when was that?

24 MR. BAZELAK: Objection. Asked and
25 answered. Go ahead.

1 THE WITNESS: I don't recall the time
2 frame, but it was completed, obviously, by looking
3 at it, it was completed at some point prior to him
4 going to the jail.

5 BY MR. CHRISTIAN:

6 Q. Do you know what you wrote on it?

7 A. To finish it?

8 Q. To finish it.

9 A. I do not.

10 Q. Is there a policy for using your body
11 camera during a traffic stop?

12 A. You have to activate it, yes. Or it
13 actually activates on its own when you hit your
14 lights.

15 Q. And how long does it have to be on?

16 A. During the duration of our
17 interaction with Mr. Owensby, so the traffic stop
18 or eventually the jail or whatnot.

19 Q. At any point did you turn the audio
20 off to your body camera?

21 A. I did mute my body camera at one
22 point in time.

23 Q. Why?

24 A. At that time Mr. Owensby was secured
25 in our back seat and Officer Hammock and I were

1 having conversations not related to the incident
2 so I felt -- I didn't see the need for it to catch
3 us talking.

4 MR. CHRISTIAN: Can you repeat his
5 answer for me?

6 (Record read.)

7 BY MR. CHRISTIAN:

8 Q. You muting the audio to your body
9 camera, is that in accordance with the Dayton
10 Police Department policy?

11 A. At that time you were allowed to mute
12 your body cam when having private conversations or
13 talking to an unmarked detective about the case or
14 whatnot, yes.

15 Q. You were investigated as a result of
16 your consult during this incident, right?

17 A. Yes.

18 Q. And was there an investigation done
19 regarding you muting your audio?

20 A. There was.

21 Q. Do you know the results of that
22 investigation?

23 A. I got a training memo.

24 Q. What did that training memo say?

25 A. As I stated earlier, I don't recall

1 the verbiage of it, but it was in the body cam
2 policy.

3 Q. Do you recall whether the
4 investigation -- whether the results of the
5 investigation stated that you were justified in
6 muting your body camera?

7 A. I --

8 MR. BAZELAK: Objection. Do you have
9 the training memo? If you want to show it to him.
10 He said he can't recall the verbiage.

11 MR. CHRISTIAN: Okay. One second.
12 Off the record.

13 (Pause in proceedings.)

14 BY MR. CHRISTIAN:

15 Q. Mr. Carter, I have in my hand the
16 findings of the Profession Standards Bureau
17 Investigation of you and Officer Hammock in regard
18 to this matter.

19 A. Okay.

20 MR. CHRISTIAN: Counsel.

21 MR. BAZELAK: Thank you.

22 MR. CHRISTIAN: No problem.

23 (Mr. Owensby exited the room.)

24 BY MR. CHRISTIAN:

25 Q. Have you seen this document before?

1 A. I don't believe so.

2 Q. On the first page it says to Kamran
3 Afzal, spelled K-A-M-R-A-N, last name A-F-Z-A-L,
4 underneath it says director and chief of police.
5 Are you aware of who that is?

6 A. Yeah, it's our chief.

7 Q. Underneath it says from, Lieutenant
8 Eric R. Sheldon. That's Eric with a C.
9 Underneath it says Professional Standards Bureau.
10 Are you aware of who the Professional Standards
11 Bureau are?

12 A. Yep.

13 Q. This is a twenty-seven page document.
14 Can you turn to page twenty-five for me?

15 A. Yep.

16 Q. On the -- in the last paragraph of
17 page twenty-five beginning with at the time, can
18 you read that for me, please?

19 A. At the time of this incident, the
20 proper usage of BWC's was governed by Executive
21 Order 10-2021 body worn cameras, parentheses,
22 04/21, Section F, outlines when personnel may stop
23 or mute a recording. It states: Keep going?

24 Q. Yes.

25 A. Personnel shall not stop or mute a

1 recording during a public encounter or assigned
2 CFS, except for the following: Personnel may stop
3 and/or mute: While conferring with undercover
4 personnel from investigative units, confidential
5 informants, or federal personnel/agents. However,
6 personnel shall unmute prior to continuing or
7 taking any law enforcement action; personal relief
8 or break. Personnel may momentarily mute only:
9 Conversations that involve police and/or case
10 tactics or strategy; personnel -- personal
11 emergency matters of a sensitive nature, i.e.,
12 family emergency, medical emergency, catastrophic
13 event.

14 With supervisors' approval, personnel
15 may mute when officers' duties are unlikely to
16 lead to information relevant to a case, i.e.,
17 directing traffic, preserving a crime scene. The
18 BWC audio shall be reactivated immediately if the
19 circumstances change, or any police action is to
20 be taken.

21 Q. Can you read that last sentence for
22 me, please, on page twenty-six?

23 A. Based on Executive Order 10-2021,
24 Officer Carter's and Officer Hammock's muting of
25 his BWC during this incident was not justified.

1 Therefore, a violation of Executive Order 10-2021
2 is sustained.

3 Q. Do you know what BWC stands for?

4 A. Body worn camera.

5 Q. Thank you. I would like this, the
6 findings on Professional Standards Bureau
7 Investigation as Plaintiff's Exhibit 2?

8 (Plaintiff's Exhibit 2, findings on
9 Professional Standards Bureau Investigation, was
10 marked for purposes of identification.)

11 MR. CHRISTIAN: Do you want one,
12 Counselor?

13 MR. BAZELAK: No, I'm good. I'll
14 just write it down.

15 MR. CHRISTIAN: No problem.

16 BY MR. CHRISTIAN:

17 Q. After reviewing this document do you
18 believe that you were justified in muting your
19 audio during this incident?

20 A. Well --

21 MR. BAZELAK: Objection. Go ahead.

22 THE WITNESS: Well, the department
23 didn't find me justified, so therefore, no.

24 BY MR. CHRISTIAN:

25 Q. Did you believe the investigation

1 was -- withdrawn.

2 Was Mr. Owensby taken to the
3 hospital?

4 A. Yes.

5 Q. When was he taken?

6 A. After he -- I believe he spoke with
7 Sergeant Magill and the money was counted.

8 Q. After who spoke with Sergeant Magill?

9 A. Clifford Owensby.

10 Q. Did you see Mr. Owensby talking to
11 Sergeant Magill?

12 A. I seen them, yes.

13 Q. Do you know what they discussed?

14 A. I do not.

15 Q. Who took Mr. Owensby to the hospital?

16 A. Officer Hammock and I did.

17 Q. When you arrived at the hospital, was
18 any assistance provided to Mr. Owensby in getting
19 him out of the patrol car?

20 A. Yep. Yes. We got him a wheelchair.
21 We uncuffed him and we asked Mr. Owensby how to
22 best assist him out of the cruiser into the
23 wheelchair, and he explained to us how to assist
24 him and we successfully got him in the wheelchair
25 and then wheeled him into the hospital.

1 Q. Who provided the wheelchair?

2 A. Grandview has them at the hospital.

3 Grandview is a hospital.

4 Q. Grandview Hospital is where he went?

5 A. Yes.

6 Q. How far was Grandview Hospital from
7 the scene?

8 A. Less than two miles. It's right down
9 the street on West Grand. The actual entrance to
10 the hospital is on West Grand -- or it would be
11 east.

12 Q. So how much time is that,
13 approximately? Five minutes?

14 A. If that, yeah.

15 Q. Did you speak with anyone at the
16 hospital?

17 A. Just when you take individuals into
18 the hospital, you just state the reason why you're
19 bringing them to the hospital, and then they
20 usually do all the talking because they ask
21 personal questions to the people coming to the
22 hospital.

23 Q. Do you remember what they said?

24 A. The hospital staff?

25 Q. Yes, the hospital staff.

1 A. No, usually they just ask for
2 birthday, sosh, and why are you here today.

3 Q. Did you hear Mr. Owensby speak with
4 the hospital staff?

5 A. Yeah, he spoke with them. Yes.

6 Q. Do you know what he said?

7 A. No, I do not.

8 MR. CHRISTIAN: Off the record.

9 (Pause in proceedings.)

10 BY MR. CHRISTIAN:

11 Q. Back up a little bit. When you and
12 Officer Hammock were removing Mr. Owensby from his
13 vehicle, do you remember him stating if he was in
14 any pain?

15 A. I don't recall him saying anything
16 about pain being removed from the vehicle.

17 Q. Do you remember him stating whether
18 he was in pain while you were attempting to
19 handcuff him?

20 A. Honestly I don't recall.

21 Q. Do you remember Mr. Owensby stating
22 if he was in pain when you were placing him into
23 your patrol car?

24 A. No. At that time he wasn't talking
25 at all, saying anything.

1 Q. Did Mr. Owensby state that he was in
2 pain while he was at the hospital?

3 A. I don't recall. I sat outside his
4 room the entire time so if he stated any type of
5 pain, it would have been to the medical staff.

6 Q. Where was Mr. Owensby taken after his
7 hospital visit?

8 A. Montgomery County Jail.

9 Q. What happened when he got to
10 Montgomery County Jail?

11 A. Myself and a couple corrections
12 officers, again, they got a wheelchair for him.
13 We helped him into the wheelchair and the
14 wheelchair went inside the jail.

15 Q. Did he state that he was in any pain
16 while in the jail?

17 A. Not that I recall, no.

18 Q. Did you leave him at the jail then?

19 A. No. He was actually refused by the
20 jail's medical staff.

21 Q. Why was he refused?

22 A. That I do not know. The medical
23 staff made that determination.

24 Q. Did you receive any documentation
25 from the medical staff?

1 A. From being refused or from the
2 hospital?

3 Q. From being refused.

4 A. From the jail staff?

5 Q. Yes.

6 A. They don't give us reasons why or,
7 like, documentation saying this is why.

8 Q. Did you receive any documentation
9 from the hospital?

10 A. Yes, we received three forms of
11 documentation for Mr. Owensby; one goes to the
12 supervisor, one goes to Mr. Owensby, and one goes
13 to the jail staff on all the medical staff -- or
14 medical treatment he received at the hospital for
15 his records, the police records, and the jail
16 records.

17 MR. CHRISTIAN: Can you restate his
18 answer for me, please?

19 (Record read.)

20 BY MR. CHRISTIAN:

21 Q. Did you review the documents you
22 received?

23 A. From the medical staff?

24 Q. From the medical staff.

25 A. I did not review them, no.

1 Q. Do you know if Officer Hammock
2 reviewed it?

3 A. I don't know.

4 Q. Going back a bit again, when you
5 stated that you reviewed the field interview card
6 for Mr. Owensby, you stated that it showed that he
7 had numerous contacts with the police department
8 for guns and drugs; is that correct?

9 A. Correct.

10 Q. What would you define as numerous?

11 A. More than one.

12 Q. Is it more than two?

13 A. He had a lot of field interview cards
14 on there with interaction with the police. It
15 holds up to five or six on the computer.

16 Q. So you saw up to five or six or does
17 it just hold up to five or six?

18 A. It holds the most recent five, I
19 think, five or six. I don't -- some people don't
20 have that many, but it holds the most recent,
21 like, date timewise.

22 Q. Do you remember if he had five or
23 six?

24 A. I -- he had numerous. Like I said, I
25 don't know the exact number.

1 Q. Did the K-9 unit arrive on scene
2 prior to Officer Hammock going to the driver's
3 side of Mr. Owensby's vehicle?

4 A. I don't recall the time frame between
5 Officer Hammock going to the driver's side or the
6 K-9 arriving.

7 Q. You stated that you were working on
8 duty the day prior to the incident with
9 Mr. Owensby, correct?

10 A. Correct.

11 Q. Do you know what time your work shift
12 ended?

13 A. The night before?

14 Q. The night before.

15 A. I don't, but obviously it was late.
16 I don't know the exact time. I'd have to log on
17 the computer and actually see what time I logged
18 off that night.

19 Q. What would you describe late as,
20 o'clock?

21 A. No. The night before I believe the
22 incident happened around, like, 10:00 or
23 o'clock at night so it would be like 2:00 or
24 o'clock in the morning.

25 Q. What was your job on September 30th,

1 2021?

2 A. My job? I was assigned to the
3 community problem response team. The job title
4 was to get guns and drugs off the street
5 essentially.

6 Q. And how do you do that?

7 A. We work closely with unmarked
8 detectives. We make traffic stops. We -- subject
9 stops, talking to people.

10 Q. Did you have any assigned duties that
11 day?

12 A. As in like what?

13 Q. Like, was there something more
14 specifically that you were told to do that day
15 instead of any, like, general getting guns off the
16 street? Were you assigned to a specific area to,
17 you know, go crack down on --

18 A. So that's not, like, really something
19 we were, like, assigned to do. Pretty much we
20 just patrol the entire west Dayton corridor
21 anywhere to get guns and drugs off the street. So
22 it's not really one specific spot unless, like,
23 detectives -- or like a crime stoppers complaint
24 comes and tells you about an area or whatnot or
25 like a pattern alert where they have multiple,

1 like, shootings or whatnot in this area. But, no,
2 that day we were just helping a detective.

3 Q. So you were just driving around that
4 day?

5 A. Well, prior to that we were not
6 driving. We were in our office. But we were
7 driving to that location where Mr. Owensby was,
8 yes.

9 Q. So you were in the office when you
10 received the call from the detective?

11 A. Correct.

12 Q. Would you have gone around to patrol
13 the streets that day if you had not gotten the
14 call from the detective?

15 A. Yes, eventually.

16 Q. What area of Dayton did the west
17 patrol service?

18 A. West of the river. So -- I don't
19 really know how to explain it other than -- west
20 of the Miami -- what is it, Great Miami River?

21 Q. So everything west?

22 A. Yeah. That way (indicating).

23 Q. Oh. (Indicating.)

24 A. Yep. Got you.

25 Q. Sorry, I'm not from Ohio. Why did

1 you leave this patrol and go back to being a
2 patrol officer?

3 A. They got rid of the unit due to the
4 reorg of the new police chief.

5 MR. CHRISTIAN: Can you read that
6 back?

7 (Record read.)

8 THE WITNESS: Reorganization. Sorry.

9 BY MR. CHRISTIAN:

10 Q. Earlier you testified that you
11 received training memos but you don't remember it;
12 is that correct?

13 A. Training memos for what? This?

14 Q. I'm sorry?

15 A. You asked me about training memos for
16 this one (indicating)?

17 Q. For -- is that the investigation
18 you're pointing to?

19 A. Yeah, you said -- you're talking
20 about a training memo. Earlier I testified I had
21 a training memo for this.

22 Q. Yeah. Did you read the memo?

23 A. Did I what?

24 Q. Did you read the memo?

25 A. Did I read the memo?

1 Q. Yes.

2 A. When I received it, yes.

3 Q. Why didn't you graduate?

4 A. College?

5 Q. Yeah.

6 A. School wasn't for me.

7 Q. What do you mean?

8 A. It just -- I didn't enjoy going to
9 class every day.

10 Q. Were you ever accused of any
11 misconduct while in college?

12 A. No.

13 Q. Earlier you stated that you came in
14 early on September 30th, correct?

15 A. Uh-huh.

16 Q. If you're not coming in --

17 MR. BAZELAK: Yes?

18 THE WITNESS: Yes. I'm sorry.

19 BY MR. CHRISTIAN:

20 Q. If you're not coming in early, what's
21 the normal time you come in?

22 A. For that day it would have been I
23 believe 2:00 p.m.

24 Q. Are there any occasions where white
25 shirts or supervisors are requested and then

1 they're called and then they overrule any
2 decisions of their subordinate officers?

3 A. No.

4 Q. Have you ever called your supervisor
5 to arrive on scene upon request?

6 A. Have I ever called a supervisor?

7 Q. Yeah, to come to the scene.

8 A. Are you talking Owensby or just in
9 general?

10 Q. Just in general.

11 A. Oh, yeah.

12 Q. How often do you say you have to call
13 your supervisor?

14 A. Not often.

15 Q. When you do, do you call because it's
16 requested or do you do it on your own?

17 A. Because it's requested.

18 Q. How quickly do you typically call
19 your supervisor after it's requested?

20 A. Like I've stated earlier, it just
21 depends on the situation of the call, the nature
22 of the call, the person. Each interaction with
23 the public and individuals are not the same.

24 Q. When Mr. Owensby was being pulled
25 from the vehicle, did anyone attempt to ensure his

1 back didn't hit the ground?

2 A. Not that I know of, no.

3 Q. At all times during the stop were you
4 able to see Mr. Owensby's hands?

5 A. At all times?

6 Q. Yes.

7 A. I don't recall at all times if he put
8 his hands down or not.

9 Q. But you were able to see his hands
10 when you were moving -- when you were removing him
11 from his car?

12 A. The one I had ahold of, yes.

13 Q. You couldn't see the other?

14 A. There's two of us in the door frame,
15 it was kind of hard to see a whole lot.

16 Q. So you couldn't see because Officer
17 Hammock was there?

18 A. Officer Hammock and I were both in
19 the door frame with Mr. Owensby. I only saw what
20 I could see. I told you what I saw.

21 Q. When police officers encounter a
22 citizen, whose job would you say it is to ensure
23 the safety of the citizen?

24 MR. BAZELAK: Objection. You can
25 answer.

1 THE WITNESS: Whose job it is to
2 ensure the safety of an individual that calls?

3 BY MR. CHRISTIAN:

4 Q. Yes. Is it -- would it be the
5 citizen's job to ensure their safety or would it
6 be the officer's job or --

7 A. It just depends on the call. Like,
8 if they just want to call and there's no safety
9 issue, I guess there would be no job for anyone.
10 But if they're calling because they need help and
11 they need to be potentially saved, it would be the
12 police officer's.

13 Q. Back to the ticket just briefly.
14 Now, I understand that you said that you're not
15 sure if you had signed the ticket when you were in
16 your patrol car; is that correct?

17 A. Correct.

18 Q. But generally, if you had signed the
19 ticket, would it have been completed?

20 A. When I signed the ticket, that means
21 the ticket is completed, yes.

22 Q. How much do you weigh?

23 A. How much do I weigh? Two thirty.

24 Q. How much did you weigh in September
25 of 2021?

1 A. My weight fluctuates between two
2 twenty and two thirty.

3 MR. CHRISTIAN: Go off the record for
4 a second.

5 (Pause in proceedings.)

6 BY MR. CHRISTIAN:

7 Q. Do you recall counting the money that
8 you confiscated on the hood of Mr. Owensby's
9 vehicle?

10 A. Counting Owensby's money on the hood?

11 Q. Yes.

12 A. Yes.

13 Q. Do you recall Officer Hammock asking
14 you why you beat that poor man up while you were
15 counting money?

16 A. I do.

17 Q. What did he mean by that?

18 MR. BAZELAK: Objection.

19 BY MR. CHRISTIAN:

20 Q. What do you believe he meant by that?

21 MR. BAZELAK: Objection. You can
22 answer.

23 THE WITNESS: I believe at the time
24 he just made an insensitive joke, but I don't -- I
25 don't know what he meant by it.

1 BY MR. CHRISTIAN:

2 Q. Did you think it was funny?

3 A. No.

4 MR. CHRISTIAN: I'm just going to
5 reserve my right to recall and I have no further
6 questions.

7 MR. BAZELAK: All right. We'll read.

8 (Thereupon, the deposition was
9 concluded at 1:39 p.m.)

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1 STATE OF OHIO)
2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Kathy S. Wysong, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named VINCENT CARTER, was by me first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

20

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25

1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this 21st day of November, 2022.

4 *Kathy S. Wysong*
5 _____
6

7 KATHY S. WYSONG, RPR

8 NOTARY PUBLIC, STATE OF OHIO

9 My commission expires 12-25-2023
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November 29, 2022

To: Leonard J. Bazalak

Case Name: Owensby, Clifford v. The City Of Dayton Et Al.

Veritext Reference Number: 5511220

Witness: Vincent Carter Deposition Date: 11/10/2022

Dear Sir/Madam:

The deposition transcript taken in the above-referenced matter, with the reading and signing having not been expressly waived, has been completed and is available for review and signature. Please call our office to make arrangements for a convenient location to accomplish this or if you prefer a certified transcript can be purchased.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5511220

CASE NAME: Owensby, Clifford v. The City Of Dayton Et Al.

DATE OF DEPOSITION: 11/10/2022

WITNESS' NAME: Vincent Carter

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Vincent Carter

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;

They signed the foregoing Sworn
Statement; and

Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5511220

CASE NAME: Owensby, Clifford v. The City Of Dayton Et Al.

DATE OF DEPOSITION: 11/10/2022

WITNESS' NAME: Vincent Carter

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Vincent Carter

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

1

ERRATA SHEET

VERITEXT LEGAL SOLUTIONS MIDWEST

2

ASSIGNMENT NO: 11/10/2022

3

PAGE/LINE(S) / CHANGE /REASON

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Date

Vincent Carter

21

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____

22

DAY OF _____, 20____ .

23

Notary Public

24

25

Commission Expiration Date

[00343 - ahead]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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